

17-27a-101. Title.

This chapter is known as the "County Land Use, Development, and Management Act."

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-102. Purposes -- General land use authority.

(1) (a) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each county and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.

(b) To accomplish the purposes of this chapter, counties may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the unincorporated area of the county, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

Amended by Chapter 363, 2007 General Session

17-27a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same

calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(6) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(7) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(8) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(9) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(10) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(11) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a

program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection

(11)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection

(11)(a)(i); and

(B) used in support of the purposes of a building described in Subsection

(11)(a)(i); or

(ii) a therapeutic school.

(12) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(13) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(14) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(15) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.

(16) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(17) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(18) "Identical plans" means building plans submitted to a county that:
(a) are clearly marked as "identical plans";
(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:
(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(20) "Improvement completion assurance" means a surety bond, letter of credit, cash, or other security required by a county to guaranty the proper completion of landscaping or infrastructure that the land use authority has required as a condition precedent to:

(a) recording a subdivision plat; or
(b) beginning development activity.

(21) "Improvement warranty" means an applicant's unconditional warranty that the accepted landscaping or infrastructure:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(22) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping;
or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(23) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(24) "Interstate pipeline company" means a person or entity engaged in natural

gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(25) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(26) "Land use application" means an application required by a county's land use ordinance.

(27) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(28) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.

(29) "Land use permit" means a permit issued by a land use authority.

(30) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(31) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(32) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(33) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(35) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(36) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(37) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(38) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

(39) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(40) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(41) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

(42) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(43) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(44) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(45) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(46) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(47) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

- (48) "Residential facility for persons with a disability" means a residence:
- (a) in which more than one person with a disability resides; and
 - (b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - (ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- (49) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
- (a) parliamentary order and procedure;
 - (b) ethical behavior; and
 - (c) civil discourse.
- (50) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.
- (51) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.
- (52) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.
- (53) "Specified public agency" means:
- (a) the state;
 - (b) a school district; or
 - (c) a charter school.
- (54) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.
- (55) "State" includes any department, division, or agency of the state.
- (56) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.
- (57) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.
- (b) "Subdivision" includes:
- (i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
 - (ii) except as provided in Subsection (57)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.
- (c) "Subdivision" does not include:
- (i) a bona fide division or partition of agricultural land for agricultural purposes;
 - (ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
 - (A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;
(iii) a recorded document, executed by the owner of record:
(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property;
or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (57) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(58) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(59) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(60) "Township" means a contiguous, geographically defined portion of the

unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.

(61) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(62) "Unincorporated" means the area outside of the incorporated area of a municipality.

(63) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and
(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(64) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Amended by Chapter 136, 2014 General Session

Amended by Chapter 363, 2014 General Session

17-27a-104. Stricter requirements.

(1) Except as provided in Subsection (2), a county may enact an ordinance imposing stricter requirements or higher standards than are required by this chapter.

(2) A county may not impose stricter requirements or higher standards than are required by:

(a) Section 17-27a-305; and

(b) Section 17-27a-513.

Amended by Chapter 309, 2013 General Session

17-27a-201. Required notice.

(1) At a minimum, each county shall provide actual notice or the notice required by this part.

(2) A county may by ordinance require greater notice than required under this part.

Enacted by Chapter 254, 2005 General Session

17-27a-202. Applicant notice -- Waiver of requirements.

(1) For each land use application, the county shall:

(a) notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application;

(b) provide to each applicant a copy of each staff report regarding the applicant or the pending application at least three business days before the public hearing or public meeting; and

(c) notify the applicant of any final action on a pending application.

(2) If a county fails to comply with the requirements of Subsection (1)(a) or (b) or both, an applicant may waive the failure so that the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

Amended by Chapter 257, 2006 General Session

17-27a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain counties.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each county of the first or second class shall provide 10 calendar days notice of its intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Automated Geographic Reference Center created in Section 63F-1-506;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

(d) on the Utah Public Notice Website created under Section 63F-1-701.

(2) Each notice under Subsection (1) shall:

(a) indicate that the county intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the county to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the county that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the county has one, and the name and telephone number of a person where more information can be obtained concerning the county's proposed general plan or amendment.

Amended by Chapter 188, 2009 General Session

17-27a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) A county shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

(a) (i) published in a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section 63F-1-701;

(b) mailed to each affected entity; and

(c) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:

(a) (i) submitted to a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section 63F-1-701;

and

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website.

Amended by Chapter 90, 2010 General Session

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

(c) (i) published:

(A) in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by county ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

- (a) in at least three public locations within the county; or
 - (b) on the county's official website.
- (4) (a) If a county plans to hold a public hearing in accordance with Section 17-27a-502 to adopt a zoning map or map amendment, the county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed map at least 10 days prior to the scheduled day of the public hearing.
- (b) The notice shall:
 - (i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;
 - (ii) state the current zone in which the real property is located;
 - (iii) state the proposed new zone for the real property;
 - (iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;
 - (v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;
 - (vi) state the address where the property owner should file the protest;
 - (vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and
 - (viii) state the location, date, and time of the public hearing described in Section 17-27a-502.
 - (c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Amended by Chapter 189, 2014 General Session

17-27a-206. Third party notice.

- (1) If a county requires notice to adjacent property owners, the county shall:
 - (a) mail notice to the record owner of each parcel within parameters specified by county ordinance; or
 - (b) post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.
- (2) If a county mails notice to third party property owners under Subsection (1), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

Enacted by Chapter 254, 2005 General Session

17-27a-207. Notice for an amendment to a subdivision -- Notice for vacation of or change to street.

- (1) (a) For an amendment to a subdivision, each county shall provide notice of the date, time, and place of at least one public meeting, as provided in Subsection (1)(b).

(b) At least 10 calendar days before the public meeting, the notice required under Subsection (1)(a) shall be:

(i) mailed and addressed to the record owner of each parcel within specified parameters of that property; or

(ii) posted on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

(2) Each county shall provide notice as required by Section 17-27a-208 for a subdivision that involves a vacation, alteration, or amendment of a street.

Amended by Chapter 338, 2009 General Session

17-27a-208. Hearing and notice for proposal to vacate a public street, right-of-way, or easement.

(1) For any proposal to vacate some or all of a public street, right-of-way, or easement, the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the notice required under Subsection (1)(b) shall be:

(a) mailed to the record owner of each parcel that is accessed by the public street, right-of-way, or easement;

(b) mailed to each affected entity;

(c) posted on or near the street, right-of-way, or easement in a manner that is calculated to alert the public; and

(d) (i) published in a newspaper of general circulation in the county in which the land subject to the petition is located; and

(ii) published on the Utah Public Notice Website created in Section 63F-1-701.

Amended by Chapter 90, 2010 General Session

17-27a-209. Notice challenge.

If notice given under authority of this part is not challenged under Section 17-27a-801 within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.

Enacted by Chapter 254, 2005 General Session

17-27a-210. Notice to county when a private institution of higher education is constructing student housing.

(1) Each private institution of higher education that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:

(a) the county in whose unincorporated area the privately owned residential property is located; or

(b) the municipality in whose boundaries the privately owned residential property is located.

(3) At the request of a county or municipality that is entitled to notice under this section, the institution and the legislative body of the affected county or municipality shall jointly hold a public hearing to provide information to the public and receive input from the public about the proposed construction.

Enacted by Chapter 231, 2005 General Session

17-27a-211. Canal owner or operator -- Notice to county.

(1) For purposes of Subsection 17-27a-508(1)(b)(iv), a canal company or a canal operator shall provide on or before July 1, 2010, any county in which the canal company or canal operator owns or operates a canal:

(a) a current mailing address and phone number;

(b) a contact name; and

(c) a general description of the location of each canal owned or operated by the canal owner or canal operator.

(2) If the information described in Subsection (1) changes after a canal company or a canal operator has provided the information to the county, the canal company or canal operator shall provide the correct information within 30 days of the day on which the information was changed.

Enacted by Chapter 332, 2010 General Session

17-27a-212. Notice for an amendment to public improvements in a subdivision or development.

Prior to implementing an amendment to adopted specifications for public improvements that apply to a subdivision or development, a county shall give 30 days mailed notice and an opportunity to comment to anyone who has requested the notice in writing.

Enacted by Chapter 216, 2012 General Session

17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Township planning commission -- Compensation.

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a township.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

(i) municipalities; and

(ii) townships with their own planning commissions.

(2) (a) The ordinance shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (2)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) (i) If the county establishes a township planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the township planning commission in a public meeting; and

(D) details relating to the organization and procedures of each township planning commission.

(ii) Subsection (3)(a)(i)(C) does not affect the township planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each township shall consist of seven members who, except as provided in Subsection (4), shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed or, as provided in Subsection (4), elected and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in Subsection (4), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township planning commission shall be a registered voter residing within the township.

(ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) may be an appointed member who is a registered voter residing outside the township if that member:

(I) is an owner of real property located within the township; and

(II) resides within the county in which the township is located.

(B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the

township planning commission from a list of three persons submitted by the county legislative body.

(II) If the township planning commission has not notified the county legislative body of its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning commission's receipt of the list, the county legislative body may appoint one of the three persons on the list or a registered voter residing within the township as a member of the township planning commission.

(4) (a) The legislative body of each county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) is located shall on or before January 1, 2012, enact an ordinance that provides for the election of at least three members of the planning commission of that township.

(b) (i) Beginning with the 2012 general election, the election of planning commission members under Subsection (4)(a) shall coincide with the election of other county officers during even-numbered years.

(ii) Approximately half the elected planning commission members shall be elected every four years during elections held on even-numbered years, and the remaining elected members shall be elected every four years on alternating even-numbered years.

(c) If no person files a declaration of candidacy in accordance with Section 20A-9-202 for an open township planning commission member position:

(i) the position may be appointed in accordance with Subsection (3)(b); and

(ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time that exceeds the elected term for which there was no candidate.

(5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1, 2012, enact an ordinance that:

(i) designates the seats to be elected; and

(ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the planning commission of the reconstituted or reinstated township.

(b) A member appointed under Subsection (5)(a) is considered an elected member.

(6) (a) Except as provided in Subsection (6)(b), the term of each member appointed under Subsection (5)(a) shall continue until the time that the member's term as an elected member of the former township planning and zoning board would have expired.

(b) (i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the terms of the members appointed under Subsection (5)(a) so that the terms of those members coincide with the schedule under Subsection (4)(b) for elected members.

(ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) is located may enact an ordinance allowing each appointed member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning commission of the reconstituted or reinstated township until the time that the member's term as a member of the former township's planning

and zoning board would have expired.

(iii) If a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) has more than one appointed member who resides outside the township, the legislative body of the county in which that township is located shall, within 15 days of the effective date of this Subsection (6)(b)(iii), dismiss all but one of the appointed members who reside outside the township, and a new member shall be appointed under Subsection (3)(b) to fill the position of each dismissed member.

(7) (a) Except as provided in Subsection (7)(b), upon the appointment or election of all members of a township planning commission, each township planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or township planning and zoning board.

(b) Notwithstanding Subsection (7)(a), if the members of a former township planning and zoning board continue to hold office as members of the planning commission of the township planning district under an ordinance enacted under Subsection (5)(a), the township planning commission shall immediately begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that had previously been under the jurisdiction of the township planning and zoning board.

(8) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

Amended by Chapter 189, 2014 General Session

17-27a-302. Planning commission powers and duties.

(1) Each countywide or township planning commission shall, with respect to the unincorporated area of the county, or the township, make a recommendation to the county legislative body for:

- (a) a general plan and amendments to the general plan;
- (b) land use ordinances, zoning maps, official maps, and amendments;
- (c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
- (d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
- (e) application processes that:
 - (i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
 - (ii) shall protect the right of each:
 - (A) applicant and third party to require formal consideration of any application by a land use authority;
 - (B) applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) The planning commission of a township under this part may recommend to the legislative body of the county in which the township is located that the legislative body file a protest to a proposed annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b).

Amended by Chapter 359, 2012 General Session

17-27a-303. Entrance upon land.

A county may enter upon any land at reasonable times to make examinations and surveys pertinent to the:

- (1) preparation of its general plan; or
- (2) preparation or enforcement of its land use ordinances.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-304. State and federal property.

Unless otherwise provided by law, nothing contained in this chapter may be construed as giving a county jurisdiction over property owned by the state or the United States.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-305. Other entities required to conform to county's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within the unincorporated portion of the county.

(b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a county may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53A-20-108, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

- (i) a county building inspector;
- (ii) (A) for a school district, a school district building inspector from that school district; or
- (B) for a charter school, a school district building inspector from the school district in which the charter school is located; or
- (iii) an independent, certified building inspector who is:
 - (A) not an employee of the contractor;
 - (B) approved by:
 - (I) a county building inspector; or
 - (II) (Aa) for a school district, a school district building inspector from that school district; or
 - (Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and
- (C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

- (A) the state superintendent of public instruction, as provided in Subsection 53A-20-104(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

- (B) a county official with authority to issue the certificate, if the school district or charter school used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school

building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53A-20-104(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-27a-509;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 17-27a-304; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Amended by Chapter 200, 2013 General Session

17-27a-306. Townships.

(1) (a) A township may be established as provided in this Subsection (1).

(b) A township may not be established unless the area to be included within the proposed township:

(i) is unincorporated;

(ii) is contiguous; and

(iii) (A) contains:

(I) at least 20% but not more than 80% of:

(Aa) the total private land area in the unincorporated county; or

(Bb) the total value of locally assessed taxable property in the unincorporated county; or

(II) (Aa) in a county of the first, second, or third class, at least 5% of the total population of the unincorporated county; or

(Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of the unincorporated county; or

(B) has been declared by the United States Census Bureau as a census

designated place.

(c) (i) The process to establish a township is initiated by the filing of a petition with the clerk of the county in which the proposed township is located.

(ii) A petition to establish a township may not be filed if it proposes the establishment of a township that includes an area within a proposed township in a petition that has previously been certified under Subsection (1)(g), until after the canvass of an election on the proposed township under Subsection (1)(j).

(d) A petition under Subsection (1)(c) to establish a township shall:

(i) be signed by the owners of private real property that:

(A) is located within the proposed township;

(B) covers at least 10% of the total private land area within the proposed township; and

(C) is equal in value to at least 10% of the value of all private real property within the proposed township;

(ii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a township;

(iii) indicate the typed or printed name and current residence address of each owner signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a township.

(e) Subsection 10-2-101(3) applies to a petition to establish a township to the same extent as if it were an incorporation petition under Title 10, Chapter 2, Part 1, Incorporation.

(f) (i) Within seven days after the filing of a petition under Subsection (1)(c) proposing the establishment of a township in a county of the first or second class, the county clerk shall provide notice of the filing of the petition to:

(A) each owner of real property owning more than 1% of the assessed value of all real property within the proposed township; and

(B) each owner of real property owning more than 850 acres of real property within the proposed township.

(ii) A property owner may exclude all or part of the property owner's property from a proposed township in a county of the first or second class:

(A) if:

(I) (Aa) (Ii) the property owner owns more than 1% of the assessed value of all property within the proposed township;

(IIii) the property is nonurban; and

(IIIiii) the property does not or will not require municipal provision of municipal-type services; or

(Bb) the property owner owns more than 850 acres of real property within the proposed township; and

(II) exclusion of the property will not leave within the township an island of property that is not part of the township; and

(B) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (1)(f)(i).

(iii) (A) The county legislative body shall exclude from the proposed township the property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the property meets the applicable requirements of Subsection (1)(f)(ii)(A).

(B) If the county legislative body excludes property from a proposed township under Subsection (1)(f)(iii), the county legislative body shall, within five days after the exclusion, send written notice of its action to the contact sponsor.

(g) (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (1)(d); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (1)(d):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(h) (i) Within 90 days after a petition to establish a township is certified, the county legislative body shall hold a public hearing on the proposal to establish a township.

(ii) A public hearing under Subsection (1)(h)(i) shall be:

(A) within the boundary of the proposed township; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once in a newspaper of general circulation in the county; and

(B) on the Utah Public Notice Website created in Section 63F-1-701.

(i) Following the public hearing under Subsection (1)(h)(i), the county legislative body shall arrange for the proposal to establish a township to be submitted to voters residing within the proposed township at the next regular general election that is more than 90 days after the public hearing.

(j) A township is established at the time of the canvass of the results of an election under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal to establish a township voted in favor of the proposal.

(k) (i) A township that was dissolved under Laws of Utah 1997, Chapter 389, is reinstated as a township under this part with the same boundaries and name as before the dissolution, if the former township consisted of a single, contiguous land area.

(ii) Notwithstanding Subsection (1)(k)(i), a county legislative body may enact an ordinance establishing as a township under this part a former township that was dissolved under Laws of Utah 1997, Chapter 389, even though the former township does not qualify to be reinstated under Subsection (1)(k)(i).

(iii) A township reinstated under Subsection (1)(k)(i) or established under Subsection (1)(k)(ii) is subject to the provisions of this part.

(l) A township established under this section on or after May 5, 1997, may use the word "township" in its name.

(2) The county legislative body may:

(a) assign to the countywide planning commission the duties established in this part that would have been assumed by a township planning commission designated under Subsection (2)(b); or

(b) designate and appoint a planning commission for the township.

(3) (a) An area within the boundary of a township may be withdrawn from the township as provided in this Subsection (3).

(b) The process to withdraw an area from a township is initiated by the filing of a petition with the clerk of the county in which the township is located.

(c) A petition under Subsection (3)(b) shall:

(i) be signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn from the township;

(B) covers at least 50% of the total private land area within the area proposed to be withdrawn from the township; and

(C) is equal in value to at least 33% of the value of all private real property within the area proposed to be withdrawn from the township;

(ii) state the reason or reasons for the proposed withdrawal;

(iii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be withdrawn from the township;

(iv) indicate the typed or printed name and current residence address of each owner signing the petition;

(v) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vii) request the county legislative body to withdraw the area from the township.

(d) Subsection 10-2-101(3) applies to a petition to withdraw an area from a township to the same extent as if it were an incorporation petition under Title 10, Chapter 2, Part 1, Incorporation.

(e) (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (3)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(f) (i) Within 60 days after a petition to withdraw an area from a township is certified, the county legislative body shall hold a public hearing on the proposal to withdraw the area from the township.

(ii) A public hearing under Subsection (3)(f)(i) shall be held:

(A) within the area proposed to be withdrawn from the township; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative body shall:

(A) publish notice of the petition and the time, date, and place of the public hearing:

(I) at least once a week for three consecutive weeks in a newspaper of general circulation in the township; and

(II) on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks; and

(B) mail a notice of the petition and the time, date, and place of the public hearing to each owner of private real property within the area proposed to be withdrawn.

(g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county legislative body shall make a written decision on the proposal to withdraw the area from the township.

(ii) In making its decision as to whether to withdraw the area from the township, the county legislative body shall consider:

(A) whether the withdrawal would leave the remaining township in a situation where the future incorporation of an area within the township or the annexation of an area within the township to an adjoining municipality would be economically or practically not feasible;

(B) if the withdrawal is a precursor to the incorporation or annexation of the withdrawn area:

(I) whether the proposed subsequent incorporation or withdrawal:

(Aa) will leave or create an unincorporated island or peninsula; or

(Bb) will leave the county with an area within its unincorporated area for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years; and

(II) whether the municipality to be created or the municipality into which the withdrawn area is expected to annex would be or is capable, in a cost effective manner, of providing service to the withdrawn area that the county will no longer provide due to the incorporation or annexation;

(C) the effects of a withdrawal on adjoining property owners, existing or projected county streets or other public improvements, law enforcement, and zoning and other municipal services provided by the county; and

(D) whether justice and equity favor the withdrawal.

(h) Upon the written decision of the county legislative body approving the withdrawal of an area from a township, the area is withdrawn from the township and the township continues as a township with a boundary that excludes the withdrawn area.

(4) (a) A township may be dissolved as provided in this Subsection (4).

(b) The process to dissolve a township is initiated by the filing of a petition with the clerk of the county in which the township is located.

(c) A petition under Subsection (4)(b) shall:

(i) be signed by registered voters within the township equal in number to at least 25% of all votes cast by voters within the township at the last congressional election;

(ii) state the reason or reasons for the proposed dissolution;

(iii) indicate the typed or printed name and current residence address of each person signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsors to act on behalf of all persons signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to dissolve the township.

(d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (4)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(e) (i) Within 60 days after a petition to dissolve the township is certified, the

county legislative body shall hold a public hearing on the proposal to dissolve the township.

(ii) A public hearing under Subsection (4)(e)(i) shall be held:

(A) within the boundary of the township; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once a week for three consecutive weeks in a newspaper of general circulation in the township; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks immediately before the public hearing.

(f) Following the public hearing under Subsection (4)(e)(i), the county legislative body shall arrange for the proposal to dissolve the township to be submitted to voters residing within the township at the next regular general election that is more than 90 days after the public hearing.

(g) A township is dissolved at the time of the canvass of the results of an election under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal to dissolve the township voted in favor of the proposal.

Amended by Chapter 90, 2010 General Session

Amended by Chapter 218, 2010 General Session

17-27a-307. Certain township planning and zoning board dissolved.

Except as provided in Subsection 17-27a-306(1)(f), the planning and zoning board of each township formed before May 5, 1997, under Laws of Utah 1996, Chapter 308, is dissolved.

Amended by Chapter 250, 2008 General Session

17-27a-401. General plan required -- Content -- Provisions related to radioactive waste facility.

(1) In order to accomplish the purposes of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the county; and

(b) growth and development of all or any part of the land within the unincorporated portions of the county.

(2) The plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

- (i) food and water; and
 - (ii) drainage, sanitary, and other facilities and resources;
 - (d) the use of energy conservation and solar and renewable energy resources;
 - (e) the protection of urban development;
 - (f) the protection or promotion of moderate income housing;
 - (g) the protection and promotion of air quality;
 - (h) historic preservation;
 - (i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and
 - (j) an official map.
- (3) (a) The plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:
- (i) the information identified in Section 19-3-305;
 - (ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and
 - (iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.
- (b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.
- (c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.
- (d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.
- (e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county shall:
- (i) comply with Subsection (3)(a) as soon as reasonably possible; and
 - (ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.
- (4) The plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.
- (5) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-402. Information and technical assistance from the state.

Each state official, department, and agency shall:

- (1) promptly deliver any data and information requested by a county, unless the

disclosure is prohibited by Title 63G, Chapter 2, Government Records Access and Management Act; and

(2) furnish any other technical assistance and advice that they have available to the county without additional cost to the county.

Amended by Chapter 382, 2008 General Session

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the unincorporated area within the county.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and

(iii) an estimate of the need for the development of additional moderate income housing within the unincorporated area of the county, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate

in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of blight; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic

and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2); and

(g) any other element the county considers appropriate.

Amended by Chapter 176, 2014 General Session

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(3). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(3) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication:

(A) in at least one major Utah newspaper having broad general circulation in the state;

(B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and

(C) on the Utah Public Notice Website created in Section 63F-1-701.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(3), including:

(A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and

(B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(5) (a) The county legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

(b) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for its consideration.

(6) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii); and

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

Amended by Chapter 90, 2010 General Session

17-27a-405. Effect of general plan.

(1) Except for the mandatory provisions in Subsection 17-27a-401(3)(b) and Section 17-27a-406, the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.

(2) The legislative body may adopt an ordinance mandating compliance with the general plan, and shall adopt an ordinance requiring compliance with all provisions of Subsection 17-27a-401(3)(b).

Enacted by Chapter 254, 2005 General Session

17-27a-406. Public uses to conform to general plan.

After the legislative body has adopted a general plan, no street, park, or other public way, ground, place, or space, no publicly owned building or structure, and no public utility, whether publicly or privately owned, may be constructed or authorized until and unless it conforms to the current general plan.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-407. Effect of official maps.

- (1) Counties may adopt an official map.
- (2) (a) An official map does not:
 - (i) require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in Subsection (2)(b)(iii); or
 - (ii) require a county to immediately acquire property it has designated for eventual use as a public street.
- (b) This section does not prohibit a county from:
 - (i) recommending that an applicant consider and accommodate the location of the proposed streets in the planning of a development proposal in a manner that is consistent with Section 17-27a-507;
 - (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain; or
 - (iii) requiring the dedication and improvement of a street if the street is found necessary by the county because of a proposed development and if the dedication and improvement is consistent with Section 17-27a-507.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-408. Biennial review of moderate income housing element of general plan.

- (1) The legislative body of each county with a population over 25,000 shall biennially:
 - (a) review the moderate income housing plan element of its general plan and its implementation; and
 - (b) prepare a report setting forth the findings of the review.
- (2) Each report under Subsection (1) shall include a description of:
 - (a) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;
 - (b) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;
 - (c) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and
 - (d) efforts made by the county to coordinate moderate income housing plans and actions with neighboring counties and municipalities.
- (3) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the county is located.
- (4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Amended by Chapter 212, 2012 General Session

17-27a-409. State to indemnify county regarding refusal to site nuclear waste -- Terms and conditions.

If a county is challenged in a court of law regarding its decision to deny siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste or its refusal to provide municipal-type services regarding the operation of the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless from any claims or damages, including court costs and attorney fees that are assessed as a result of the county's action, if:

(1) the county has complied with the provisions of Subsection 17-27a-401(3)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the boundaries of the county;

(2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide municipal-type services; and

(3) the court challenge against the county addresses the county's actions in compliance with Subsection 17-27a-401(3)(b) or 17-34-1(3).

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-501. Authority to enact land use ordinances and zoning map.

The legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in this chapter.

Amended by Chapter 240, 2006 General Session

17-27a-502. Preparation and adoption of land use ordinance or zoning map.

(1) The planning commission shall:

(a) provide notice as required by Subsection 17-27a-205(1)(a) and, if applicable, Subsection 17-27a-205(4);

(b) hold a public hearing on a proposed land use ordinance or zoning map;

(c) if applicable, consider each written objection filed in accordance with Subsection 17-27a-205(4) prior to the public hearing; and

(d) (i) prepare and recommend to the legislative body a proposed land use ordinance or ordinances and zoning map that represent the planning commission's recommendation for regulating the use and development of land within all or any part of the unincorporated area of the county; and

(ii) forward to the legislative body all objections filed in accordance with Subsection 17-27a-205(4).

(2) The county legislative body shall consider each proposed land use ordinance and zoning map recommended to it by the planning commission, and, after providing notice as required by Subsection 17-27a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the proposed ordinance or map either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

Amended by Chapter 324, 2013 General Session

17-27a-503. Land use ordinance or zoning map amendments.

(1) The legislative body may amend:

- (a) the number, shape, boundaries, or area of any zoning district;
- (b) any regulation of or within the zoning district; or
- (c) any other provision of a land use ordinance.

(2) The legislative body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its recommendation.

(3) The legislative body shall comply with the procedure specified in Section 17-27a-502 in preparing and adopting an amendment to a land use ordinance or a zoning map.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-504. Temporary land use regulations.

(1) (a) A county legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the county if:

(i) the legislative body makes a finding of compelling, countervailing public interest; or

(ii) the area is unregulated.

(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.

(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

(2) The legislative body shall establish a period of limited effect for the ordinance not to exceed six months.

(3) (a) A legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.

(b) A regulation under Subsection (3)(a):

(i) may not exceed six months in duration;

(ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional six-month periods by ordinance enacted before the expiration of the previous regulation; and

(iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-505. Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry

out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

(i) protect life; and

(ii) prevent:

(A) the substantial loss of real property; or

(B) substantial damage to real property.

(d) A county may not adopt a land use ordinance requiring a property owner to revegetate or landscape a single family dwelling disturbance area unless the property is located in a flood zone or geologic hazard except as required in Title 19, Chapter 5, Water Quality Act, to comply with federal law related to water pollution.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

Amended by Chapter 476, 2013 General Session

17-27a-505.5. Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of unrelated individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A county may not adopt a single-family limit that is less than:

(a) three, if the county has within its unincorporated area:

(i) a state university; or

(ii) a private university with a student population of at least 20,000; or

(b) four, for each other county.

Amended by Chapter 172, 2012 General Session

17-27a-506. Conditional uses.

(1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

(2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable

conditions to achieve compliance with applicable standards, the conditional use may be denied.

Amended by Chapter 245, 2005 General Session

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-507. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A county may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3) (a) (i) A county or, if applicable, the county's culinary water authority shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.

(ii) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.

(b) A county or its culinary water authority may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4) (a) If a county plans to dispose of surplus real property under Section 17-50-312 that was acquired under this section and has been owned by the county for less than 15 years, the county shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the county.

(b) A person to whom a county offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the county's offer.

(c) If a person to whom a county offers to reconvey property declines the offer, the county may offer the property for sale.

(d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community development or urban renewal agency.

Amended by Chapter 309, 2013 General Session

17-27a-508. Applicant's entitlement to land use application approval -- Exceptions -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has filed a complete land use application, including the payment of all application fees, is entitled to substantive land use review of the land use application under the land use laws in effect on the date that the application is complete and as further provided in this section.

(ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the county's land use maps, zoning map, and applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:

(A) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

(B) in the manner provided by local ordinance and before the application is submitted, the county has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)(b)(i) and Subsection (1)(b)(ii) have been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403.

(ii) (A) A county shall notify the executive director of the Department of Transportation of any land use applications that relate to land located within the boundaries of a high priority transportation corridor.

(B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by certified or registered mail to the executive director of the Department of Transportation.

(iii) Except as provided in Subsection (1)(c), a county may not approve a land use application that relates to land located within the boundaries of a high priority transportation corridor until:

(A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for a building permit; or

(B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for any land use other than a building permit.

(iv) (A) If an application is an application for a subdivision approval, including any land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal, the land use authority shall:

(I) within 30 days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal owner has provided information under Section 17-27a-211; and

(II) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the subdivision application described in Subsection (1)(b)(iv)(A).

(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by certified or registered mail to the canal company or canal operator contact described in Section 17-27a-211.

(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:

(I) provided by a canal company or canal operator to the land use authority; and

(II) (Aa) determined by use of mapping-grade global positioning satellite units; or
(Bb) digitized from the most recent aerial photo available to the canal company or canal operator.

(c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(i)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(ii) A county may approve a land use application without making the required notifications under Subsections (1)(b)(i) and (ii) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(ii)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(d) After a county has complied with the requirements of Subsection (1)(b) for a land use application, the county may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a).

(e) The county shall process an application without regard to proceedings initiated to amend the county's ordinances as provided in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the proceedings were initiated; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(f) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(g) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(h) A county may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(i) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(j) A county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply

with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(2) A county is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission.

Amended by Chapter 136, 2014 General Session

17-27a-509. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A county may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the county charges for a building permit fee for that building.

(2) Subject to Subsection (1), a county may impose and collect only a nominal fee for reviewing and approving identical floor plans.

(3) A county may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county water, sewer, storm water, power, or other utility system.

(4) A county may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the county shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the county shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the county to create the calculation method described in Subsection (5)(a);

- (ii) an accounting of each fee paid;
- (iii) how each fee will be distributed; and
- (iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A county shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

- (i) regulation;
- (ii) processing an application;
- (iii) issuing a permit; or
- (iv) delivering the service for which the applicant or owner paid the fee.

(6) A county may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

- (a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;
- (b) subject to Subsection (3), a hookup fee; and
- (c) an impact fee for a public facility listed in Subsection 11-36a-102(16)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a county:

- (a) Subsections (5) and (6);
- (b) Section 17-27a-507; and
- (c) Section 17-27a-509.5.

Amended by Chapter 200, 2013 General Session

17-27a-509.5. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1) (a) Each county shall, in a timely manner, determine whether an application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the county diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the county provide a written determination either that the application is:

- (i) complete for the purposes of allowing subsequent, substantive land use authority review; or
- (ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the county shall either:

- (i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the

application must be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) The land use authority shall take final action, approving or denying the application within 45 days of the written request.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority should have taken final action under Subsection (2)(c).

(3) (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the county's adopted standards.

(b) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.

(c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the county's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for its determination.

(4) Subject to Section 17-27a-508, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Amended by Chapter 112, 2008 General Session

17-27a-509.7. Transferable development rights.

(1) A county may adopt an ordinance:

(a) designating sending zones and receiving zones within the unincorporated area of the county; and

(b) allowing the transfer of a transferable development right from a sending zone to a receiving zone.

(2) A county may not allow the use of a transferable development right unless the county adopts an ordinance described in Subsection (1).

Amended by Chapter 231, 2012 General Session

17-27a-510. Nonconforming uses and noncomplying structures.

(1) (a) Except as provided in this section, a nonconforming use or a noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A county may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is

rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in its zoning ordinance, a county may permit a billboard owner to relocate the billboard within the county's unincorporated area to a location that is mutually acceptable to the county and the billboard owner.

(ii) If the county and billboard owner cannot agree to a mutually acceptable location within 90 days after the owner submits a written request to relocate the billboard, the provisions of Subsection 17-27a-512(2)(a)(iv) apply.

(4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the county regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(c) has not in fact occurred.

(5) A county may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Amended by Chapter 170, 2009 General Session

17-27a-511. Termination of a billboard and associated rights.

(1) A county may only require termination of a billboard and associated property rights through:

(a) gift;

(b) purchase;

(c) agreement;

(d) exchange; or

(e) eminent domain.

(2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent of the billboard owner.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-512. County's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboard to be rebuilt or replaced -- Validity of county permit after issuance of state permit.

- (1) As used in this section:
 - (a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.
 - (b) "Highest allowable height" means:
 - (i) if the height allowed by the county, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the county; or
 - (ii) (A) for a noninterstate billboard:
 - (I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or
 - (II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and
 - (B) for an interstate billboard:
 - (I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or
 - (II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
 - (c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.
 - (d) "Interstate height" means a height that is the higher of:
 - (i) 65 feet above the ground; and
 - (ii) 25 feet above the grade of the interstate.
 - (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.
 - (f) "Visibility area" means the area on a street or highway that is:
 - (i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
 - (ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - (A) perpendicular to the street or highway; and
 - (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or
 - (II) for a noninterstate billboard, 300 feet from the base of the billboard.
- (2) (a) A county is considered to have initiated the acquisition of a billboard structure by eminent domain if the county prevents a billboard owner from:
 - (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism;
 - (ii) except as provided in Subsection (2)(c), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the county has issued a permit, if the proposed relocation,

rebuilding, or other measure is consistent with the intent of that permit;

- (iii) structurally modifying or upgrading a billboard;

- (iv) relocating a billboard into any commercial, industrial, or manufacturing zone within the unincorporated area of the county, if:

- (A) the relocated billboard is:

- (I) within 5,280 feet of its previous location; and

- (II) no closer than:

- (Aa) 300 feet from an off-premise sign existing on the same side of the street or highway; or

- (Bb) if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; and

- (B) (I) the billboard owner has submitted a written request under Subsection 17-27a-510(3)(c); and

- (II) the county and billboard owner are unable to agree, within the time provided in Subsection 17-27a-510(3)(c), to a mutually acceptable location; or

- (v) making the following modifications, as the billboard owner determines, to a billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated under Subsection (2)(a)(iv):

- (A) erecting the billboard:

- (I) to the highest allowable height; and

- (II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; and

- (B) installing a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before its relocation.

- (b) A modification under Subsection (2)(a)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

- (c) A county's denial of a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard does not constitute the initiation of acquisition by eminent domain under Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:

- (i) by the billboard applicant in the application; and

- (ii) regarding the placement or erection of the billboard.

- (d) If a county is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (1)(a) or any other provision of applicable law, the county shall pay just compensation to the billboard owner in an amount that is:

- (i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;

- (ii) the value of any other right associated with the billboard structure that is acquired;

- (iii) the cost of the sign structure; and

- (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of

which the billboard owner's interest is a part.

(3) Notwithstanding Subsection (2) and Section 17-27a-511, a county may remove a billboard without providing compensation if:

(a) the county determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

(A) is structurally unsafe;

(B) is in an unreasonable state of repair; or

(C) has been abandoned for at least 12 months;

(b) the county notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

(c) the owner fails to remedy the condition or conditions within:

(i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (3)(b); or

(ii) if the condition forming the basis of the county's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (3)(b); and

(d) following the expiration of the applicable period under Subsection (3)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the county finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(4) A county may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than its owner or the owner acting through its contractors.

(5) A permit issued, extended, or renewed by a county for a billboard remains valid from the time the county issues, extends, or renews the permit until 180 days after a required state permit is issued for the billboard if:

(a) the billboard requires a state permit; and

(b) an application for the state permit is filed within 30 days after the county issues, extends, or renews a permit for the billboard.

Amended by Chapter 189, 2014 General Session

17-27a-513. Manufactured homes.

(1) For purposes of this section, a manufactured home is the same as defined in Section 15A-1-302, except that the manufactured home shall be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code. All appendages, including carports, garages, storage buildings, additions, or alterations shall be built in compliance with the applicable building code.

(2) A manufactured home may not be excluded from any land use zone or area in which a single-family residence would be permitted, provided the manufactured home complies with all local land use ordinances, building codes, and any restrictive covenants, applicable to a single-family residence within that zone or area.

(3) A county may not:

(a) adopt or enforce an ordinance or regulation that treats a proposed development that includes manufactured homes differently than one that does not include manufactured homes; or

(b) reject a development plan based on the fact that the development is expected to contain manufactured homes.

Amended by Chapter 14, 2011 General Session

Amended by Chapter 297, 2011 General Session

17-27a-514. Regulation of amateur radio antennas.

(1) A county may not enact or enforce an ordinance that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.

(2) If a county adopts an ordinance involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:

(a) reasonably accommodate amateur radio communications; and

(b) represent the minimal practicable regulation to accomplish the county's purpose.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-515. Regulation of residential facilities for persons with disabilities.

A county may only regulate a residential facility for persons with a disability to the extent allowed by:

(1) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;

(2) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and applicable jurisprudence; and

(3) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

Repealed and Re-enacted by Chapter 309, 2013 General Session

17-27a-519. Licensing of residences for persons with a disability.

The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with:

(1) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for People with Disabilities; and

(2) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Amended by Chapter 309, 2013 General Session

17-27a-520. Wetlands.

A county may not designate or treat any land as wetlands unless the United States Army Corps of Engineers or other agency of the federal government has designated the land as wetlands.

Enacted by Chapter 388, 2007 General Session

17-27a-521. Refineries.

(1) As used in this section, "develop" or "development" means:

- (a) the construction, alteration, or improvement of land, including any related moving, demolition, or excavation outside of a refinery property boundary;
- (b) the subdivision of land for a non-industrial use; or
- (c) the construction of a non-industrial structure on a parcel that is not subject to the subdivision process.

(2) Before a legislative body may adopt a non-industrial zoning change to permit development within 500 feet of a refinery boundary, the legislative body shall consult with the refinery to determine whether the proposed change is compatible with the refinery.

(3) Before a land use authority may approve an application to develop within 500 feet of a refinery boundary, the land use authority shall consult with the refinery to determine whether the development is compatible with the refinery.

(4) A legislative body described in Subsection (2), or a land use authority described in Subsection (3), may not request from the refinery:

- (a) proprietary information;
 - (b) information, if made public, that would create a security or safety risk to the refinery or the public;
 - (c) information that is restricted from public disclosure under federal or state law;
- or

(d) information that is available in public record.

(5) (a) This section does not grant authority to a legislative body described in Subsection (2), or a land use authority described in Subsection (3), to require a refinery to undertake or cease an action.

(b) This section does not create a cause of action against a refinery.

(c) Except as expressly provided in this section, this section does not alter or remove any legal right or obligation of a refinery.

Enacted by Chapter 306, 2010 General Session

17-27a-522. Parcel boundary adjustment.

(1) A property owner:

- (a) may execute a parcel boundary adjustment by quitclaim deed or by a boundary line agreement as described in Section 57-1-45; and
 - (b) shall record the quitclaim deed or boundary line agreement in the office of the county recorder.
- (2) A parcel boundary adjustment is not subject to the review of a land use authority.

Enacted by Chapter 334, 2013 General Session

17-27a-523. Boundary line agreement.

- (1) As used in this section, "boundary line agreement" is an agreement described in Section 57-1-45.
- (2) A property owner:
- (a) may execute a boundary line agreement; and
 - (b) shall record a boundary line agreement in the office of the county recorder.
- (3) A boundary line agreement is not subject to the review of a land use authority.

Enacted by Chapter 334, 2013 General Session

17-27a-524. Site plan.

- A site plan submitted to a county for approval of a building permit:
- (1) if modified, may not be used to impose a penalty on a property owner;
 - (2) does not represent an agreement for a specific final layout;
 - (3) does not bind an owner from future development activity or modifications to a development activity on the property; and
 - (4) is superceded by the terms of a building permit requirement.

Enacted by Chapter 476, 2013 General Session

17-27a-601. Enactment of subdivision ordinance.

- (1) The legislative body of a county may enact ordinances requiring that a subdivision plat comply with the provisions of the ordinance and this part before:
- (a) it may be filed or recorded in the county recorder's office; and
 - (b) lots may be sold.
- (2) If the legislative body fails to enact a subdivision ordinance, the county may regulate subdivisions only as provided in this part.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-602. Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

- (1) The planning commission shall:
- (a) prepare and recommend a proposed ordinance to the legislative body that regulates the subdivision of land;
 - (b) prepare and recommend or consider and recommend a proposed ordinance

that amends the regulation of the subdivision of the unincorporated land in the county;

(c) provide notice consistent with Section 17-27a-205; and

(d) hold a public hearing on the proposed ordinance before making its final recommendation to the legislative body.

(2) The county legislative body may adopt or reject the ordinance either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Recording plat.

(1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for underground facilities, as defined in Section 54-8a-2, and for other utility facilities.

(2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority and the sanitary sewer authority, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority before approving a plat.

(3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) A plat may not be submitted to a county recorder for recording unless, subject to Subsection 17-27a-604(2):

(i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) As applicable, the owner or operator of the underground and utility facilities shall approve the:

(A) boundary, course, dimensions, and intended use of the right-of-way and easement grants of record;

(B) location of existing underground and utility facilities; and

(C) conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision.

(ii) The approval of an owner or operator under Subsection (4)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under:

(I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

(II) a recorded easement or right-of-way;

(III) the law applicable to prescriptive rights; or

(IV) any other provision of law.

(5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Amended by Chapter 377, 2011 General Session

17-27a-604. Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 17-27a-603(4)(a);

(b) the plat has been approved by:

(i) the land use authority of the county in whose unincorporated area the land described in the plat is located; and

(ii) other officers that the county designates in its ordinance; and

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers.

(2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

(3) A plat recorded without the signatures required under this section is void.

(4) A transfer of land pursuant to a void plat is voidable.

Amended by Chapter 377, 2011 General Session

17-27a-604.5. Subdivision plat recording or development activity before

**required infrastructure is completed -- Infrastructure completion assurance --
Infrastructure warranty.**

(1) A land use authority shall establish objective inspection standards for acceptance of a landscaping or infrastructure improvement required by the land use authority as a condition of:

- (a) subdivision; or
- (b) development activity.

(2) (a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity.

(b) Subsection (2)(a) does not apply if:

(i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and

(ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.

(3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:

- (a) execute an improvement warranty for the improvement warranty period; and
- (b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:
 - (i) engineer's original estimated cost of completion; or
 - (ii) applicant's reasonable proven cost of completion.

Repealed and Re-enacted by Chapter 309, 2013 General Session

17-27a-605. Exemptions from plat requirement.

(1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may approve the subdivision of unincorporated land into 10 lots or less without a plat, by certifying in writing that:

- (a) the county has provided notice as required by ordinance; and
- (b) the proposed subdivision:
 - (i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
 - (ii) has been approved by the culinary water authority and the sanitary sewer authority;
 - (iii) is located in a zoned area; and
 - (iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 17-27a-603 if:

- (i) the lot or parcel:

- (A) qualifies as land in agricultural use under Section 59-2-502; and
- (B) is not used and will not be used for any nonagricultural purpose; and
- (ii) the new owner of record completes, signs, and records with the county recorder a notice:

- (A) describing the parcel by legal description; and
 - (B) stating that the lot or parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

- (b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the lot or parcel to comply with the requirements of Section 17-27a-603 and all applicable land use ordinance requirements.

- (3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

- (b) The absence of the certificate or written approval required by Subsection (1) does not:

- (i) prohibit the county recorder from recording a document; or

- (ii) affect the validity of a recorded document.

- (c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached in accordance with Section 57-3-106.

- (4) (a) As used in this Subsection (4):

- (i) "Divided land" means land that:

- (A) is described as the land to be divided in a notice under Subsection (4)(b)(ii);

and

- (B) has been divided by a minor subdivision.

- (ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

- (iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that, after the division, is separate from the remainder of the original 100 or more contiguous acres of agricultural land.

- (iv) "Minor subdivision lot" means a lot created by a minor subdivision.

- (b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

- (i) a recordable deed containing the legal description of the minor subdivision lot; and

- (ii) a notice:

- (A) indicating that the owner of the land to be divided is making a minor subdivision;

- (B) referring specifically to this section as the authority for making the minor subdivision; and

- (C) containing the legal description of:

- (I) the land to be divided; and
- (II) the minor subdivision lot.
- (c) A minor subdivision lot:
 - (i) may not be less than one acre in size;
 - (ii) may not be within 1,000 feet of another minor subdivision lot; and
 - (iii) is not subject to the subdivision ordinance of the county in which the minor subdivision lot is located.
- (d) Land to be divided by a minor subdivision may not include divided land.
- (e) A county:
 - (i) may not deny a building permit to an owner of a minor subdivision lot based on:
 - (A) the lot's status as a minor subdivision lot; or
 - (B) the absence of standards described in Subsection (4)(e)(ii); and
 - (ii) may, in connection with the issuance of a building permit, subject a minor subdivision lot to reasonable health, safety, and access standards that the county has established and made public.

Amended by Chapter 99, 2012 General Session

17-27a-606. Common or community area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

- (1) (a) A parcel designated as a common or community area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other lots, units, or parcels created by the plat unless:
 - (i) the parcel is being acquired by a county for a governmental purpose; and
 - (ii) the conveyance is approved by the owners of at least 75% of the lots, units, or parcels on the plat, after the county gives its approval.
- (b) A notice of the approval required in Subsection (1)(a)(ii) shall be:
 - (i) attached as an exhibit to the document of conveyance; or
 - (ii) recorded concurrently with the conveyance as a separate document.
- (2) The ownership interest in a parcel described in Subsection (1) shall:
 - (a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and
 - (b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common or community area interest is not explicitly stated in the instrument.

Amended by Chapter 381, 2010 General Session

17-27a-607. Dedication of streets and other public places.

- (1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all streets and other public places, and vests the fee of those parcels of land in the county for the public for the uses named or intended in the

plat.

(2) The dedication established by this section does not impose liability upon the county for streets and other public places that are dedicated in this manner but are unimproved.

Amended by Chapter 381, 2010 General Session

17-27a-608. Vacating or amending a subdivision plat.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to have some or all of the plat vacated or amended.

(b) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)(c) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join the petition, regardless of whether the lots or parcels are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.

(3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is also subject to Section 17-27a-609.5.

(4) Each petition to vacate or amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

- (i) the entire plat; or
 - (ii) that portion of the plan described in the petition; and
 - (b) the signature of each owner who consents to the petition.
- (5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).
- (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.
- (c) If an exchange of title is approved under Subsection (5)(b):
- (i) a notice of approval shall be recorded in the office of the county recorder which:
 - (A) is executed by each owner included in the exchange and by the land use authority;
 - (B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
 - (C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and
 - (ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.
 - (d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.
- (6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).
- (b) The surveyor preparing the amended plat shall certify that the surveyor:
- (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and
 - (iii) has placed monuments as represented on the plat.
- (c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.
- (d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Amended by Chapter 136, 2014 General Session

17-27a-609. Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

(1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:

- (a) there is good cause for the vacation or amendment; and
 - (b) no public street, right-of-way, or easement has been vacated or amended.
- (2) (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.
- (b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.
- (3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.
- (b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.
- (4) An amended plat may not be submitted to the county recorder for recording unless it is:
- (a) signed by the land use authority; and
 - (b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.
- (5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.
- (6) A plat may be corrected as provided in Section 57-3-106.

Amended by Chapter 136, 2014 General Session

17-27a-609.5. Vacating a street, right-of-way, or easement.

- (1) A petition to vacate some or all of a public street, right-of-way, or easement shall include:
- (a) the name and address of each owner of record of land that is:
 - (i) adjacent to the public street, right-of-way, or easement; or
 - (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or easement; and
 - (b) the signature of each owner under Subsection (1)(a) who consents to the vacation.
- (2) If a petition is submitted containing a request to vacate some or all of a street, right-of-way, or easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:
- (a) good cause exists for the vacation; and
 - (b) the public interest or any person will be materially injured by the proposed vacation.
- (3) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:
- (a) good cause exists for the vacation; and
 - (b) neither the public interest nor any person will be materially injured by the vacation.
- (4) If the legislative body adopts an ordinance vacating some or all of a public street, right-of-way, or easement, the legislative body shall ensure that one or both of

the following is recorded in the office of the recorder of the county in which the land is located:

- (a) a plat reflecting the vacation; or
- (b) an ordinance described in Subsection (3).
- (5) The action of the legislative body vacating some or all of a street, right-of-way, or easement that has been dedicated to public use:
 - (a) operates to the extent to which it is vacated, upon the effective date of the recorded plat, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and
 - (b) may not be construed to impair:
 - (i) any right-of-way or easement of any lot owner; or
 - (ii) the franchise rights of any public utility.

Amended by Chapter 381, 2010 General Session

17-27a-610. Restrictions for solar and other energy devices.

The land use authority may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-611. Prohibited acts.

(1) (a) An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.

(b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

- (i) does not affect the validity of the instrument or other document; and
- (ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable county ordinances on land use and development.

(2) (a) A county may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or

abate the violation.

- (c) A county need only establish the violation to obtain the injunction.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) Each county adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

- (a) requests for variances from the terms of the land use ordinances;
- (b) appeals from decisions applying the land use ordinances; and
- (c) appeals from a fee charged in accordance with Section 17-27a-509.

(2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(a) shall:

- (i) act in a quasi-judicial manner; and
- (ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a county may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;

(d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the county establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

Amended by Chapter 92, 2011 General Session

17-27a-702. Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

(2) (a) The appeal authority may grant a variance only if:

(i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

(iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) the spirit of the land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

(A) is located on or associated with the property for which the variance is sought; and

(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:

(i) relate to the hardship complained of; and

(ii) deprive the property of privileges granted to other properties in the same zone.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) The appeal authority may not grant a use variance.

(6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:

(a) mitigate any harmful affects of the variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-703. Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions.

(1) The applicant, a board or officer of the county, or any person adversely

affected by the land use authority's decision administering or interpreting a land use ordinance may, within the time period provided by ordinance, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

(2) (a) An applicant who has appealed a decision of the land use authority administering or interpreting the county's geologic hazard ordinance may request the county to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(b) If an applicant makes a request under Subsection (2)(a), the county shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant and county:

- (i) one expert designated by the county;
- (ii) one expert designated by the applicant; and
- (iii) one expert chosen jointly by the county's designated expert and the applicant's designated expert.

(c) A member of the panel assembled by the county under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.

(d) The applicant shall pay:

- (i) 1/2 of the cost of the panel; and
- (ii) the county's published appeal fee.

Amended by Chapter 356, 2009 General Session

17-27a-704. Time to appeal.

(1) The county shall enact an ordinance establishing a reasonable time of not less than 10 days to appeal to an appeal authority a written decision issued by a land use authority.

(2) In the absence of an ordinance establishing a reasonable time to appeal, an adversely affected party shall have 10 calendar days to appeal to an appeal authority a written decision issued by a land use authority.

Amended by Chapter 240, 2006 General Session

17-27a-705. Burden of proof.

The appellant has the burden of proving that the land use authority erred.

Enacted by Chapter 254, 2005 General Session

17-27a-706. Due process.

(1) Each appeal authority shall conduct each appeal and variance request as described by local ordinance.

(2) Each appeal authority shall respect the due process rights of each of the participants.

Enacted by Chapter 254, 2005 General Session

17-27a-707. Standard of review for appeals.

(1) A county may, by ordinance, designate the standard of review for appeals of land use authority decisions.

(2) If the county fails to designate a standard of review of factual matters, the appeal authority shall review the matter de novo.

(3) The appeal authority shall determine the correctness of a decision of the land use authority in its interpretation and application of a land use ordinance.

(4) Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority.

Enacted by Chapter 254, 2005 General Session

17-27a-708. Final decision.

(1) A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by local ordinance.

(2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection 17-27a-801(2)(a) or a final action under Subsection 17-27a-801(4).

Amended by Chapter 240, 2006 General Session

17-27a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a county's land use decision made under this chapter, or under a regulation made under authority of this chapter, until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the local land use decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) The courts shall:

(i) presume that a decision, ordinance, or regulation made under the authority of

this chapter is valid; and

(ii) determine only whether or not the decision, ordinance, or regulation is arbitrary, capricious, or illegal.

(b) A decision, ordinance, or regulation involving the exercise of legislative discretion is valid if it is reasonably debatable that the decision, ordinance, or regulation promotes the purposes of this chapter and is not otherwise illegal.

(c) A final decision of a land use authority or an appeal authority is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.

(d) A determination of illegality requires a determination that the decision, ordinance, or regulation violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance or regulation adopted.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a land use application for any adversely affected third party, if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use ordinance or general plan may not be filed with the district court more than 30 days after the enactment.

(6) The petition is barred unless it is filed within 30 days after land use authority or the appeal authority's decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, the aggrieved party may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

Amended by Chapter 306, 2007 General Session

Amended by Chapter 363, 2007 General Session

17-27a-802. Enforcement.

(1) (a) A county or any adversely affected owner of real estate within the county in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or
(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A county need only establish the violation to obtain the injunction.

(2) (a) The county may enforce the ordinance by withholding building permits.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a county without approval of a building permit.

(c) The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-803. Penalties -- Notice.

(1) The county may, by ordinance, establish civil penalties for violations of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter.

(2) Violation of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter is punishable as a class C misdemeanor upon conviction either:

(a) as a class C misdemeanor; or

(b) by imposing the appropriate civil penalty adopted under the authority of this section.

(3) Prior to imposing upon an owner of record a civil penalty established by ordinance under authority of this chapter, a county shall provide:

(a) written notice, by mail or hand delivery, of each ordinance violation to the address of the:

(i) owner of record on file in the office of the county recorder; or

(ii) person designated, in writing, by the owner of record as the owner's agent for the purpose of receiving notice of an ordinance violation;

(b) the owner of record a reasonable opportunity to cure a noticed violation; and

(c) a schedule of the civil penalties that may be imposed upon the expiration of a time certain.

Amended by Chapter 218, 2012 General Session